

ESTTA Tracking number: **ESTTA70179**

Filing date: **03/09/2006**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Simms Fishing Products Corporation		
Entity	Corporation	Citizenship	Wyoming
Address	101 Evergreen Drive Bozeman, MT 59715 UNITED STATES		

Attorney information	Antoinette M. Tease PO Box 51016 Billings, MT 59105 UNITED STATES toni@teaselaw.com Phone:406-245-5254
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Applicant Information

Application No	78629408	Publication date	02/21/2006
Opposition Filing Date	03/09/2006	Opposition Period Ends	03/23/2006
Applicant	Bass Pro Trademarks, L.L.C. 2500 East Kearney Springfield, MO 65898 UNITED STATES		

Goods/Services Affected by Opposition

Class 028. First Use: 1996/01/00 First Use In Commerce: 1996/01/00 All goods and services in the class are opposed, namely: Fishing tackle

Attachments	Notice of Opposition.pdf (5 pages)
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Signature	/Antoinette M. Tease/
Name	Antoinette M. Tease
Date	03/09/2006

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SIMMS FISHING PRODUCTS, CORPORATION,)	
)	
)	
Opposer,)	Opposition No. _____
)	
v.)	Trademark: EXTREME
)	
BASS PRO TRADEMARKS, L.L.C.,)	Serial No. 78629408
)	
Applicant.)	
_____)	

NOTICE OF OPPOSITION

SIMMS FISHING PRODUCTS CORPORATION, a Wyoming corporation with its principal place of business at 101 Evergreen Drive, Bozeman, Montana 59715 (the “Opposer” or “Simms”) believes it is or will be damaged by registration on the Principal Register of the mark shown in Application Serial No. 78/629,408 and hereby opposes the same.

As grounds of opposition it is alleged that:

1. Upon information and belief, BASS PRO TRADEMARKS, L.L.C. (the “Applicant” or “Bass Pro”) is a limited liability company organized and existing under the laws of the State of Missouri, with its principal place of business at 2500 East Kearney, Springfield, Missouri 65898.

2. Applicant seeks to register “EXTREME” in connection with “fishing tackle” in class 028, as evidenced by the publication of Serial No. 78/629,408 in the *Official Gazette* of February 21, 2006.

3. Upon information and belief, Applicant filed its application on May 13, 2005 under Section 1(a) of the Lanham Act [15 U.S.C. § 1051(a)], alleging a date of first use of January 1996 for the mark “EXTREME” in connection with fishing tackle.

4. Simms is in the business of selling fishing waders, clothing, footwear, bags and packs, luggage, and accessories. Simms’ products are primarily, but not exclusively, geared toward the fishing industry.

5. Simms owns U.S. Trademark Registration No. 2107681 for the mark “EXSTREAM” for fishing waders. The application was filed on August 24, 1995, and the date of first use by Simms of the mark “EXSTREAM” in connection with fishing waders is December 1, 1995.

6. Simms owns U.S. Trademark Registration No. 2695985 for the mark “EXSTREAM” for “clothing for fly fishing, namely, socks and gloves.” The application was filed on January 15, 1998, and the date of first use by Simms of the mark “EXSTREAM” in connection with the goods listed in this application is January 1997.

7. Simms owns U.S. Trademark Application No. 78205784 for the mark “EXSTREAM” for “clothing for fly fishing, namely, jackets and underwear.” The application was filed on January 22, 2003 as an intent-to-use application under Section 1(b) of the Lanham Act [15 U.S.C. § 1051(b)]. The Notice of Allowance was issued on December 30, 2003.

8. In addition, Simms has unregistered, common law rights to the mark “EXSTREAM” in connection with hats.

9. Since at least as early as the respective dates of first use stated in the above-referenced registrations and application, Simms has used its marks in connection with the sale of its goods covered by those registrations and application. Such use has been valid and continuous and has not been abandoned. Consumers of such goods have come to associate Simms with the “EXSTREAM” trademark.

10. Simms has invested substantial amounts of time, effort and money in registering, promoting and policing its “EXSTREAM” trademark throughout the United States.

11. Applicant has no license, consent or permission from Simms to use or register “EXTREME” for fishing tackle.

12. Applicant’s mark “EXTREME” so resembles Simms’ “EXSTREAM” mark that, when used in connection with fishing tackle, it is likely to cause confusion, or to cause mistake or to deceive within the meaning of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d); and more particularly, Applicant’s mark and use thereof are likely to cause confusion in, or to cause mistake by, or to deceive the trade and purchasing public into believing that the fishing tackle sold by Opposer originates with Simms or otherwise is authorized, licensed or sponsored by Simms.

13. By reason of all of the foregoing, Simms will be gravely damaged by the registration of Applicant’s “EXTREME” mark for fishing tackle because registration of that mark for those goods would be in violation of Simms’ trademark rights.

WHEREFORE, Simms prays that this Notice of Opposition be sustained in favor of Simms and that Serial No. 78/629,408 be denied registration. Simms submits herewith a payment to cover its filing fee of \$300.00, as required by 37 C.F.R. § 2.6(a)(17).

Dated: March 9, 2006

Respectfully submitted,

/Antoinette M. Tease/

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing NOTICE OF
OPPOSITION is being served on March 9, 2006, by email to
dennis.donahue@husch.com and by deposit of same in the United States Mail, first class
postage prepaid, in an envelope addressed to Dennis J.M. Donahue III, attorney for
Applicant, at:

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St. Louis, MO 63105-3441

/Antoinette M. Tease/
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